

Exhibit 5

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF MARC M. SELTZER ON BEHALF OF SUSMAN GODFREY
L.L.P. IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEY'S FEES,
COSTS, EXPENSES AND SERVICE AWARDS**

I, Marc M. Seltzer, state under oath, as follows:

1. I am a partner at Susman Godfrey L.L.P. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Investigation of the case and preparation of the complaints;

- Drafting briefs, including the opposition to Defendants' motions to dismiss and motions to compel arbitration, the motion in support of class certification, and summary judgment motions;
- Drafting discovery requests to Defendants;
- Responding to Defendants' discovery requests directed to class representatives;
- Negotiating with Defendants and various third parties regarding discovery and nonparty subpoenas;
- Collecting, reviewing, and producing document discovery for class representatives;
- Working with Plaintiffs' experts to prepare class certification and merits expert reports;
- Taking depositions of more than 20 Defendant employees and third party fact witnesses;
- Taking depositions of Defendants' expert David Stevens and defending the deposition of Plaintiffs' expert Richard Green; and
- Taking part in negotiations and numerous mediation sessions with all settling Defendants.

A fuller description of the work undertaken by Class Counsel in this action is set forth in the Declaration of Steve W. Berman, filed concurrently herewith.

3. The following is a brief description of my professional background and the background of my firm. Since the firm's founding in 1980, Susman Godfrey has served as lead counsel in hundreds of antitrust class actions and other complex commercial disputes in courts throughout the country. Susman Godfrey's practice is dedicated exclusively to litigating and trying lawsuits. The firm has represented clients in some of the largest and most complex cases ever

litigated and has demonstrated that it has the ability and resources to handle those cases effectively and efficiently. Susman Godfrey’s experiences, track record of success and staying power are reflected in its wide recognition as one of the nation’s leading trial firms, including by *The American Lawyer* in its first-ever “Litigation Boutique of the Year” competition—an award the firm won again in 2023—by being named in 2014 and 2018 to *National Law Journal*’s “America’s Elite Trial Lawyers” list, and by being named as *Benchmark Litigation*’s National Trial Firm of the Year in 2022. *Vault* has likewise named Susman Godfrey its #1 Litigation Boutique in America every year since 2011. The firm’s lawyers are consistently recognized as “Super Lawyers” and “Rising Stars” in the states where they practice. Susman Godfrey has approximately two hundred lawyers nationwide in its four offices, over 90% of whom served in federal judicial clerkships after law school. Ten of Susman Godfrey’s attorneys have clerked at the highest level—for Justices of the United States Supreme Court.

4. Susman Godfrey’s success in trying antitrust cases has made the firm one of the most trusted and sought-after firms in the country for antitrust class actions. Susman Godfrey has tried more than a dozen significant antitrust cases to a jury, yielding over \$1 billion in verdicts, and has been appointed to serve as lead or co-lead counsel in numerous antitrust class actions, including the following cases:

<ul style="list-style-type: none"> • <i>In re NFL Sunday Ticket Antitrust Litigation</i> (C.D. Cal.) • <i>In re Automotive Parts Antitrust Litigation</i> (E.D. Mich.) • <i>In re Animation Workers Antitrust Litigation</i> (N.D. Cal.) • <i>In re LIBOR-Based Fin. Instruments Antitrust Litigation</i> (S.D.N.Y.) 	<ul style="list-style-type: none"> • <i>White v. Nat’l Collegiate Athletic Ass’n</i> (C.D. Cal.) • <i>In re Ready-Mixed Concrete Antitrust Litigation</i> (S.D. Ind.) • <i>In re Universal Serv. Fund Tel. Billing Practices Litigation</i> (D. Kan.) • <i>In re Lease Oil Antitrust Litigation</i> (S.D. Tex.)
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<ul style="list-style-type: none"> • <i>In re Municipal Derivatives Antitrust Litigation</i> (S.D.N.Y.) • <i>Behrend v. Comcast Corp.</i> (E.D. Pa.) • <i>In re Korean Air Lines Co. Antitrust Litigation</i> (C.D. Cal.) • <i>In re Processed Egg Products Antitrust Litigation</i> (E.D. Pa.) • <i>In re Vitamin C Antitrust Litigation</i> (E.D.N.Y.) 	<ul style="list-style-type: none"> • <i>In re Vitamins Antitrust Litigation</i> (D.D.C.) • <i>In re Commercial Explosives Antitrust Litigation</i> (D. Utah) • <i>In re Qualcomm Antitrust Litigation</i> (N.D. Cal.)
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5. I have practiced law for more than fifty years, litigating complex business law cases in state and federal courts throughout the United States. I lead the firm's efforts as co-lead counsel for the end-payor plaintiffs in the *Automotive Parts Antitrust Litigation*, where over \$1.2 billion in settlements has been obtained for the benefit of the classes we represent. I have also represented parties in securities, intellectual property, and other complex commercial litigation. The Los Angeles Daily Journal has repeatedly honored me, naming me as a "Leading Commercial Litigator" and one of California's "Top Antitrust Lawyers," "Top Plaintiffs Lawyers," and "Top 100 Lawyers." I have also been included in the *International Who's Who of Competition Lawyers & Economists*, as one of the top antitrust lawyers in the world. I am a Life Member of the American Law Institute and is also a member of the Advisory Board of the American Antitrust Institute.

6. Among the other lawyers working on this matter are Susman Godfrey partners Steven Sklaver, Matthew Berry, and Beatrice Franklin. They likewise collectively enjoy extensive antitrust and class action experience. Mr. Sklaver, along with myself, represented the class in *White, et al. v. NCAA*, an antitrust class action alleging that the NCAA violated the federal antitrust laws by restricting amounts of athletic-based financial aid to student athletes. The NCAA settled and paid made available \$218 million for use by current student-athletes to cover the costs of

attending college and \$10 million to cover educational and professional development expenses for former student-athletes. Mr. Berry served as an integral part of the Susman Godfrey team in the *Animation Workers* action and represents the over-the-counter plaintiffs in the *LIBOR* class action currently pending in the Southern District of New York, where partial settlements totaling \$590 million have been obtained. Ms. Franklin, who joined Susman Godfrey in 2018 after clerking for the Honorable Ruth Bader Ginsburg, has served on the co-lead team in *Moehrl* since her first days at the firm, overseeing fact and expert discovery and class certification motion practice.

7. Susman Godfrey's lodestar is calculated based on the firm's current hourly rates of as of January 31, 2024. These hourly rates are based on regular and ongoing monitoring of prevailing market rates for attorneys of comparable skill, experience and qualifications. Our firm's hourly rates have been approved as reasonable in recent litigation. *See, e.g., PHT Holding II LLC v. N. Am. Co. for Life & Health Ins.*, 2023 WL 8522980, at *7 (S.D. Iowa Nov. 30, 2023); *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, 2017 WL 4685536, at *8 (C.D. Cal. 2017); *Fleisher v. Phoenix Life Ins. Co.*, 2015 WL 10847814, at *18 (S.D.N.Y. Sept. 9, 2015). All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and they did so. The schedule below reports the time spent by my firm's attorneys, paralegals and other support staff from inception until January 31, 2024. This submission does not include time relating to this motion.

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Berry, Matthew R.	Partner	970.50	\$1,100	\$1,067,550
Seltzer, Marc M.	Partner	1067.10	\$2,200	\$2,347,620
Sklaver, Steven G.	Partner	15.80	\$1,500	\$23,700
Short, Floyd	Partner	277.20	\$850	\$235,620
Franklin, Beatrice	Partner/Associate	1847.60	\$850	\$1,570,460
Pachman, Krysta K.	Partner/Associate	21.60	\$900	\$19,440

Aiken, Alex	Associate	2641.40	\$800	\$2,113,120
Macy, John	Associate	29.60	\$725	\$21,460
Davis II, Brandon	Staff Attorney	3451.80	\$450	\$1,553,310
Donofrio, Nicholas	Staff Attorney	304.90	\$300	\$91,470
Hayes, Michelle	Staff Attorney	789.40	\$425	\$335,495
Kaminsky, Alex	Staff Attorney	73.00	\$450	\$32,850
Dolan, John F.	Paralegal	260.20	\$350	\$91,070
	TOTAL HOURS	11,750.10	TOTAL	\$9,503,165

8. Susman Godfrey has expended a total of \$90,544.83 in unreimbursed litigation expenses in prosecuting this litigation. They are the type of expenses customarily billed by my firm, and include such costs as expert expenses, computerized research and other services, and coach air travel in connection with this litigation. These expenses are itemized as follows:

ACTIVITY	TOTAL COST
Articles, Books & Reports	\$332.97
Air Travel	\$9,190.52
Color Prints	\$2,214.00
Deposition Expenses	\$1,651.60
Expert Fees	\$51,747.62
Filing Fees	\$601.00
Ground Transportation (Taxis, car service)	\$1,997.05
Messenger/Delivery Services	\$647.50
Telephone & Calling Card Expenses	\$12.66
Hotels (Travel)	\$7,280.68
Meals	\$2,117.98
Mileage (Travel)	\$34.80
Miscellaneous Client Charges	\$150.00
Outside Computerized Document Charges	\$250.00
Outside Photocopy Services	\$195.64
Online Research Services	\$159.00

Court Document Alerts	\$455.70
Parking	\$336.00
In-House Postage Charges	\$13.05
B/W Prints	\$1,728.00
Research charges	\$8,388.86
Secretarial Overtime	\$834.40
Travel Expenses	\$12.00
Trial Transcripts	\$193.80
TOTAL	\$90,544.83

9. The litigation expenses incurred in prosecuting this case are reflected in the books and records of my firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 29th day of February, 2024, at Los Angeles, California.

/s/ Marc. M. Seltzer

MARC M. SELTZER